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FISCAL IMPACT STATEMENT

LS 6438

BILL NUMBER: SB 1

NOTE PREPARED: Dec 26, 2005

BILL AMENDED:

SUBJECT: Marion County Government Matters.

FIRST AUTHOR: Sen. Young R Michael

BILL STATUS: As Introduced

FIRST SPONSOR:

FUNDS AFFECTED: X **GENERAL**
X **DEDICATED**
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill contains the following provisions:

Auditor: This bill provides that the Marion County Auditor (rather than the Indianapolis City Controller) must record certain information concerning warrants issued by the auditor. It provides that the signature of the Marion County Auditor may not be signed on, imprinted on, or affixed to a warrant for the payment of county or city funds without the approval of the Auditor. It specifies that the Marion County Auditor may take certain actions assigned by law to the Auditor without the approval of the Indianapolis City Controller. It also specifies that the Marion County Auditor is responsible for payroll functions and duties for all city and county departments, offices, and agencies, and the Indianapolis City Controller may not perform these functions and duties, except as requested by the Auditor.

Elected Officers: The bill provides that each elected county officer is responsible for establishing the human resources policies and personnel policies that apply to employees of the county officer, and that these policies may be established without the approval of any other person, except for City-County Council approval of compensation of employees.

Townships: The bill provides that in Marion County: (1) a township trustee's duties regarding parks and recreation, fences, cemeteries, detrimental weeds, and administration of the Dog Tax and Dog Fund are transferred to the consolidated city; (2) all assets, property rights, equipment, records, personnel, and contracts concerning a trustee's duties regarding parks and recreation, fences, cemeteries, detrimental weeds, and administration of the Dog Tax and Dog Fund are transferred to the consolidated city on January 1, 2007; and (3) that the indebtedness of a township regarding a township trustee's duties regarding parks and recreation,

fences, cemeteries, detrimental weeds, and administration of the Dog Tax and Dog Fund is assumed or defeased by the consolidated city and property taxes imposed by the consolidated city for that indebtedness are exempt from the ad valorem property tax limits.

The bill also reduces a township board in Marion County from seven to five members.

It provides that a township board in a township in Marion County has the powers and duties of a board of zoning appeals with regard to approving and denying variances, special exceptions, special uses, contingent uses, or conditional uses except: (1) in Center Township; (2) in an excluded city that has a board of zoning appeals; and (3) with regard to a historic area or historic zoning district where the Historic Preservation Commission exercises the powers of a board of zoning appeals.

Small Claims Courts: The bill gives original and exclusive jurisdiction over infraction and ordinance violation cases in Marion County to the Marion County Small Claims Courts with certain exceptions. The bill specifies that, except for cases involving unpaid parking tickets, venue of any infraction or ordinance violation proceeding must be in the township where the alleged violation occurred. The bill establishes preferred venue for cases involving unpaid parking tickets. It requires the judge of the circuit court to assign cases concerning unpaid parking tickets to certain small claims courts. It increases from \$6,000 to \$10,000 the jurisdictional limits of the Marion County Small Claims Courts in: (1) civil cases founded on contract or tort; (2) possessory actions between a landlord and tenant; and (3) cases involving possession of property.

Safety and Advisory Boards: The bill establishes in Marion County: (1) the Fire, Emergency Medical Services, and Safety Board to determine whether the townships and the consolidated city should enter into interlocal cooperation agreements regarding hiring, training, purchasing, and other matters; and (2) the Fire and Emergency Services Advisory Board to establish educational requirements for firefighters employed by township fire departments and the Indianapolis Fire Department. The bill requires the minimum basic training required for state certification to be conducted for Marion County fire and emergency services personnel at the Emergency Services Education Center in Wayne Township.

(The introduced version of this bill was prepared by the Marion County Consolidation Study Commission.)

Effective Date: Upon passage; July 1, 2006; January 1, 2007.

Explanation of State Expenditures:

Explanation of State Revenues: *Shifting Infractions and Ordinance Violations* - Shifting infractions and ordinance violations could result in a loss of \$8 M to the state General Fund if infractions and ordinance violations are shifted from the Marion County Trial Courts to the Marion County Township Small Claims Courts. Based on a five-year average for infractions and ordinance violations disposed and adjusted for the number of cases that were dismissed, the total number of cases where a court fee would be paid under IC 33-37-4-2 is estimated to be 164,387.

	2000	2001	2002	2003	2004	5-Year Ave.
Infractions	118,968	125,991	166,185	102,978	70,214	116,867
Ordinance Violations	48,275	40,819	57,299	61,676	29,506	47,515

This bill would likely result in a revenue loss for both the state General Fund and the county and municipal general funds in Marion County because these cases would now be filed in Marion County Township Small Claims Courts. Because the court fees under IC 33-37-4-2 are not applicable in Marion County Small Claims Courts, the estimated revenue loss would be \$8.0 M for the state General Fund.

	5-Year Average		Infraction / Ordinance Violations Fee		Estimated Revenue	State Share @70%	County and Municipal Share @ 30%
Infractions	116,867	x	\$70	=	\$8,180,690	\$5,726,483	\$2,454,207
Ordinance Violations	47,515	x	\$70	=	\$3,326,050	\$2,328,235	\$997,815
Total	164,387				\$11,506,740	\$8,054,718	\$3,452,022

Shifting Civil Cases with Monetary Claims Between \$6,000 and \$10,000 - Shifting civil cases with monetary claims between \$6,000 and \$10,000 could result in a loss of \$350,000 to the state General Fund if an estimated 5,000 civil cases which are currently filed in Marion County's courts of record are filed in Marion County Small Claims Courts. Currently, actions to collect debts and other types of civil cases in excess of \$6,000 are filed as civil plenary actions for a filing fee of \$100. Of this fee, 70%, or \$70, is deposited in the state General Fund if the case is filed in a trial court. Consequently, the state General Fund would lose \$70 for every case that is now filed in the Marion County trial courts as a civil plenary case and, instead, would be filed in the Marion County Township Small Claims Courts.

Background Information: No data exists on the monetary claims associated with each civil filing in Marion County. To estimate the potential change in revenue for Marion County and the state General Fund, LSA examined if P.L. 40 - 1990 affected the filings and revenues generated by Marion County's trial and small claims courts. In 1990, the General Assembly increased Marion County's small claims jurisdiction from \$3,000 to \$6,000, effective July 1, 1990. Civil cases filed in Marion County were 21% less during the three-year period after enactment of P.L. 40 - 1990 as compared to the three years before the increase. During the same period, the civil filings in all other counties in Indiana increased by 15% and small claims cases filed in Marion County township small claims courts also increased by 11%.

The three-year average of filings and revenues before and after 1990 are shown in the table below.

Filings Compared				
	Between 1988 and 1990	Between 1991 and 1993	Difference	Percent Change
Civil Cases Filed in Trial Courts in Marion County	18,112	14,349	(3,763)	-21%
Civil Cases Filed in All Other Counties in Indiana	48,362	55,716	7,354	15%
Small Claims Filed in Marion Co. Twp. Small Claims Courts	66,628	73,672	7,044	11%

Estimated Shift in Civil Cases to Small Claims Courts – It is estimated that 1,254 cases will shift to Marion County Small Claims Courts for every \$1,000 increase in the maximum jurisdictional limits in township small claims courts ($3,763 \div \$3,000 = 1.254 \times 1,000$). This estimate assumes that cases are evenly distributed between \$3,000 and \$6,000 in the amount of monetary claims that the plaintiffs are requesting from the defendants. Based on this difference, it is estimated that roughly 5,000 cases will shift from the Marion County trial courts to Marion County township small claims courts if the jurisdictional limits for small claims courts

increases from the current \$6,000 to \$10,000 ($1.254 \times 4,000 = 5,016$).

Revenue Loss for State General Fund – The change in total court fee revenue reported for the six-year period between 1988 and 1994 was compared to determine whether any changes in revenue occurred when the jurisdiction for Marion County Township Small Claims Courts was increased in 1990. For the same period, the average annual court fee revenue collected by Marion County's trial courts was 10% less for the three-year period between 1991 and 1994 than between 1988 and 1990. For the same period, the average annual revenue collected from all other trial courts in Indiana increased by 1%. Therefore, it is anticipated that there would be a revenue loss to the state and Marion County local funds if the jurisdiction of the Marion County Small Claims Court were to increase.

Comparing Court Fees Collected Under IC 33-37-4 Before and After 1990					
		Average Annual Revenue Between 1988 and 1990	Average Annual Revenue Between 1991 and 1993	Difference	Percent Change
Revenues from Marion County Trial Courts	Local	\$189,992	\$169,922	(\$20,070)	-11%
	County	\$2,976,549	\$2,665,439	(\$311,110)	-10%
	State	\$3,166,542	\$2,835,160	(\$331,382)	-10%
	Total	\$6,335,071	\$5,672,512	(\$662,562)	-10%
Revenues from all other Trial Courts in Indiana	Local	\$718,035	\$701,931	(\$16,104)	-2%
	County	\$14,297,277	\$14,435,872	\$138,595	1%
	State	\$14,918,299	\$15,126,389	\$208,090	1%
	Total	\$29,933,611	\$30,264,192	\$330,581	1%

Currently, persons filing a civil case in Marion County Circuit or Superior Courts pay a \$100 filing fee. If 5,000 fewer persons pay the fee, the revenue loss for the state would be an estimated \$350,000 ($5,000 \text{ cases} \times \$100 \text{ filing fee} = \$500,000 \times 70\% = \$350,000$). The share for the county and municipal general funds in Marion County would decline by \$150,000.

Explanation of Local Expenditures: The following provisions may lead to cost savings by removing the duplication of services and increasing administrative efficiencies. Additionally, the bill includes other provisions that will have minor fiscal impacts on the townships, city, and county.

Transfer of Services between Townships and Consolidated City: The bill would transfer all responsibilities of administering the Dog Tax from the township assessor to the city controller. The bill also transfers the responsibility of administering the Dog Fund from the township trustee to the city controller. The city controller would likely experience an increase in administrative duties as a result.

In addition to the Dog Tax, the proposal would shift most township services to the city/county level. These services include fence viewing, and cemetery, park, and detrimental plant maintenance. Each of these services – along with all related items including assets, records, and personnel – would be transferred to the most closely corresponding city/county department, office, or agency.

The bill transfers to the townships (except Center Township) from the city/county level the duties and responsibilities of the county Board of Zoning Appeals with respect to petitions filed for: variances, special

exceptions, special uses, contingent uses, and conditional uses. Because the responsibilities would be new to the affected townships, the townships will incur additional expenses in establishing an appeals process and in acquiring qualified staff.

Township Board: This provision reduces the number of board members from seven to five. Township board, or township legislative body, members are entitled to a salary. The township legislative body determines salaries for all officers and employees of the township. Reducing the number of board members will reduce related expenditures.

Debt Assumption: The bill would assign township debt to the consolidated city for the following: providing and maintaining parks and community centers, administering the Dog Tax and Dog Fund, performing fence duties, providing and maintaining cemeteries, and destroying detrimental plants, to the consolidated city. The total 2005 non-fire township debt levy was \$7.8 M.

Safety Board: The bill creates the Fire, Emergency Medical Services, and Safety Board (Safety Board) in Marion County, which is to consist of the following members: executives of the consolidated city and each township in the county, three emergency medical professionals, and the executives of each excluded city or town that has a fire department and adopts a resolution joining the board.

The Safety Board is required to determine whether all of the units represented by members of the Safety Board should enter into an interlocal cooperation agreement to perform the following functions: purchasing processes; health care, Worker's compensation, liability insurance and payroll services contracts; vehicle maintenance; wellness or fitness programs; emergency medical services billing; fire investigation and inspection; hiring and recruit training processes, and special operations.

Each of the units' legislative bodies must pass an ordinance or resolution allowing the agreement. The bill also provides that an ordinance passed by any of the cities' legislative bodies is not subject to veto by its corresponding executive. All units that enter into an interlocal agreement will be responsible for paying a pro rata share of all administrative and other costs related to the agreement.

Advisory Board: The bill also creates the Fire and Emergency Services Training Advisory Board (Advisory Board) in Marion County. The Advisory Board includes the fire chiefs or designees of the consolidated city and township fire departments and of excluded cities and towns that join the Advisory Board; a medical doctor of an emergency medical services agency; a firefighter who is a member or officer of a local labor union that represents the consolidated city's fire department; and a firefighter employed by a township. The Advisory Board may adopt recommendations for firefighter standards and education to supplement the minimum basic training education for firefighters. The Advisory Board must then submit the recommendations to the Safety Board for approval.

The bill also requires that all training, after June 30, 2006, must be conducted at the Emergency Services Education Center in Wayne Township, Marion County, and a fire department must reimburse the education center for any training and related costs. Depending on where the departments currently hold their training, they could experience an increase in expenditures. For example, if a department holds their training in-house, the department may not currently pay for lodging, meals, instructors, tuition or other items that could possibly be required by the education center. Also, the costs will depend on the amount of supplemental training required by the Advisory Board to be held at the education center.

Small Claims Courts: Both provisions would reduce the number of cases filed in Marion County's trial courts and increase the workload in Marion County's township small claims courts.

Trial Courts – For Marion County's trial courts, the workload rate is currently estimated by the Division of State Court Administration to be 1.17, or 17% over the normative rate trial courts should be operating. If prosecuting attorneys file all 116,867 infractions and all 47,515 ordinance violations and plaintiffs file the estimated 5,000 civil cases in Marion County's small claims courts, the utilization rate would be reduced. Civil and other cases in Marion County's trial courts could be processed in a more timely manner if this shift in cases occurred.

Township Small Claims Court – The nine small claims court divisions will experience an estimated 164,000 infractions and ordinance violations and 5,000 new civil cases to the small claims docket in the township courts. In CY 2004, 73,166 cases were filed in all nine township small claims court divisions in the city. Depending on the existing capacities of each court, the local courts may need to add more staff, hearing officers, and computer equipment to accommodate the new filings and to dispose of these cases in a timely manner.

Explanation of Local Revenues: *Impact to County and Municipalities from Shifting Infractions, Ordinance Violations, and Civil Cases to Township Small Claims Courts* - The revenue loss to Marion County and municipalities in Marion County is estimated to be \$3.55 M from both provisions (See *Explanation of State Revenues*). The revenue loss from shifting infractions and ordinance violations is estimated to be \$3.4 M, while the revenue loss from increasing the jurisdiction limits for small claims courts is estimated to be \$150,000.

Impact to Townships - Shifting Civil Cases with Monetary Claims Between \$6,000 and \$10,000 - There would also be a revenue gain to township general funds of \$182,500. This bill would increase the court fee revenue that the township small claims courts could collect if the threshold is increased to \$10,000. The filing fee in the Marion County small claims court is \$36.50 (\$5 plus 45% of the infraction or ordinance violation costs fee, which is currently \$70), all of which is deposited into the township general funds. No portion of this fee is deposited into the county general fund. The added revenue would be roughly \$182,500 (5,000 cases x \$36.50 per case).

Maximum Levy Shifting Between Taxing Units - For taxes paid in 2007, this bill would shift maximum levy authority from the townships to the consolidated city in the amount of the townships' 2006 levies for Dog Tax administration, fence viewing, and cemetery, park, and detrimental plant maintenance. The bill would also shift maximum levy authority in the opposite direction, from the consolidated city to the townships in the amount of the consolidated city's 2006 levies for zoning board-related duties. The overall total maximum levies for the consolidated city and the townships will not change under this provision.

State Agencies Affected: Division of State Court Administration, Indiana Supreme Court.

Local Agencies Affected: Marion County; City of Indianapolis; Marion County trial courts and Marion County township small claims courts.

Information Sources: *Indiana Judicial Reports.*

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